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PCI Property Casualty Insurers Association of America
Shaping the Future of American Insurance

March 9, 2010

STATEMENT OF THE

PROPERTY CASUALTY INSURERS ASSOCIATION OF AMERICA (PCI)

IN OPPOSITION TO HB 5308

AN ACT ESTABLISHING A NONPROFIT WORKERS COMPENSATION INSURANCE COMPANY

This statement in opposition to HB 5308 – An Act Establishing a Nonprofit Workers Compensation Insurance Company is submitted on behalf of the Property Casualty Insurers Association of America (PCI).

Who We Are

The mission of PCI is to foster a competitive private insurance marketplace for the benefit of consumers and insurers and to provide a responsible and effective voice on public policy questions affecting insurance products and services.

PCI is a national trade association composed of more than 1,000 member companies. PCI represents the broadest cross-section of insurers of any national property casualty insurance trade association. PCI member companies write 37.4 percent of the U.S. property and casualty insurance market, 35.1 percent of the commercial property and liability market, and 41.7 percent of the private workers' compensation market. Many of our members provide worker compensation insurance to Connecticut employers and together they write about 35 percent of the state's premium.

Connecticut Workers Compensation System

The Connecticut Worker Compensation Act (Chapter 568 of the General Statutes) was initially passed in 1913. It requires employers to compensate their employees who suffer work-related injuries or occupational diseases, regardless of who is at fault. In return for receiving compensation on a no-fault basis, employees are prohibited (except in very limited circumstances) from suing their employers or fellow employees for damages arising from work-related injuries or accidents. Private insurers have provided medical treatment, temporary partial wage replacement income, permanent disability benefits, and dependency payments to Connecticut workers and their families for injuries caused by work-related accidents or occupational exposures. Connecticut employers have a reliable and cost-effective mechanism to resolve workplace injury situations.

Statistically speaking, based on the 2008 Oregon Worker Compensation Premium Rate Ranking Report, Connecticut employers in the voluntary market pay, on average, the 20th highest worker compensation premium rates in the country compared to the 14th highest in 2006. Connecticut's premium rate index is $2.46 per $100 of payroll. National premium rate indices range from a low of $1.08 in North Dakota to a high of $3.97 in Alaska, with a median value of $2.26.

Workers compensation medical care provisions and indemnity benefits are specified by state law. Indemnity benefits constitute the majority of total benefit costs in Connecticut. Connecticut is one of the country's most generous systems for employees and is in the top one-third of the states in benefit levels. According to NCCI data, workers compensation loss costs in Connecticut (1.20) are higher than the national average (0.98), but are roughly on par with other New England states (1.18)

Government Intervention Costly and Unnecessary

HB 5308 seeks the establishment of a nonprofit workers compensation insurance company to serve as the worker compensation insurance carrier of last resort in Connecticut. PCI opposes this measure and believes government should not be in the workers compensation insurance business. PCI urges this committee to maintain the reforms of the Connecticut's workers compensation system that made the system fairer, more effective and less costly while still providing important benefits.

The Connecticut workers compensation market is strong and viable. There is not a workers compensation crisis in Connecticut; employers have significant choice in insurers evidenced by the fact that there are 725 insurers licensed to write workers compensation coverage and the market is highly competitive.

The establishment of a nonprofit workers compensation insurance company to serve as the market of last resort will place additional financial burdens on employers and taxpayers. To fund this nonprofit entity, there will likely be cost-shifting to all stakeholders, including taxpayers, employers, and the private insurance market. Specifically, beginning in July of 2010 this legislation will increase employers' workers compensation costs by mandating a 3% workers compensation capital assessment on each insurance company licensed to write workers compensation insurance in Connecticut. The assessment is required under the bill for the fund to raise capital for solvency purposes and the Insurance Commissioner will have the authority to adjust the assessment rate for solvency issues. This assessment will likely raise the cost of workers compensation polices in the state.

Additionally, HB 5308 calls for an appropriation of $5 million from the Connecticut General Fund to cover start-up costs in 2011 and then an additional unspecified dollar amount in2012 as well. Given the size of Connecticut's projected budget, PCI respectfully suggests that taking taxpayer dollars to fund the establishment of a new state program is not the wisest use of limited resources.

This legislative proposal would be considered bad at anytime, but it is particularly bad when the state's economy is suffering and businesses are struggling. Creating a nonprofit entity could cause an exodus of private insurance carriers and further diminish the state's tax base, potentially creating another blow to the state's budget deficit. Taxpayers will likely need to subsidize these lost revenues. All employers will be subsidizing the lost revenues through diminished state services or additional taxes.

Considering HB 5308 does not mandate the use of sound actuarial practices, running deficits will likely be the outcome and taxpayers could be called upon, in some way, shape or form, to bail it out. If enacted, employers will bear the economic burden of ensuring the solvency of this proposed entity on an on-going basis. This proposal equates to a public workers compensation insurance option, resulting in an un-level playing field, cost-shifting to employers and state tax payers, and ultimately, will grievously harm the competitive workers compensation market.

Privatization Trends Do Not Favor this Bill

Across the country, a number of states with workers compensation funds have privatized. If Connecticut establishes a nonprofit workers compensation insurance company to serve as the insurer of last resort, the state would be out of step with the rest of the nation. Following is a short summary of the results of the privatization efforts in West Virginia and Nevada.

West Virginia Privatization

In 2005, the State of West Virginia approved the privatization of the state fund which had been the sole workers compensation provider. West Virginia Insurance Commissioner Jane L. Cline states that their privatized workers compensation system is offering better claims administration, lower cost for employers and better treatment of injured workers. Cline says the old fund was saturated with fraud by providers, employers and employees.

Since the switch, Cline says that the claims handling has improved such that:

- Claims protests have fallen 68%;
- The overall appeals process has been streamlined resulting in claims disputes being resolved in a shorter period of time;
- Claimants have received better claim management by claims adjusters having fewer claims to manage; and
- The unfunded liability on old fund claims has dropped from $3.1 billion to $1.5 billion

The open workers compensation market is also performing well, according to Cline. As of June 30, 2009:

- Overall premiums have dropped 30.3% or more than $150 million;
- 198 different workers compensation insurance companies have filed rate and form; and

Nevada Workers Compensation Privatization

Governor Kenny Guinns' privatization bill was enacted in the 1999 legislative session. The bill privatized the Nevada State Industrial Insurance System (SIIS). The following information is a summary of Pinnacle Actuarial Resources' review and findings of the impact of privatization and workers compensation reform that took place in the state over the past ten years.

Pinnacle Actuarial Resources, Inc. endeavored to report on the following four items:

1. Examine the trends of the Nevada workers compensation system over the last decade.
2. Describe the substantive reforms that have been implemented in the state and their impact.
3. Provide an assessment of how Nevada's workers compensation rates loss trends and competitiveness compared to the systems in other states.
4. Discuss the potential for these reforms to be applied to other areas.

Significant findings and trends from the report are summarized below:

- Nevada's overall rate level in 2005 was approximately 23% lower than the rate level in place prior to the privatization of SIIS.
- Nevada's rates, which for most of the classes of employment were among the 10 highest states in 1996, are now generally near the countrywide average and comparable with most states. Notably, Nevada's rates have gone from being much higher than California's in 1996 to substantially lower in 2004.
- Nevada has moved from having a disadvantage in attracting employers to the state due to relatively high workers compensation costs to having a work comp cost advantage over neighboring states.
- The Nevada workers compensation market has been able to attract enough insurance companies to the market to create a healthy level of competition.
- The reforms have reduced insurance rates since the privatization of SIIS while increasing average benefits to the injured worker over the last five years.
- During the period of privatization and renewed competition (1996 through 2001) workers compensation costs per employee nationally were steadily <u>increasing</u> at a rate of almost 7% per year. In contrast, Nevada's workers compensation costs per employee from 1997 to 2001 were <u>reduced</u> by almost 2% per year.
- Nevada's claim frequencies during the same period were <u>decreasing</u> at about 8½% annually which favorably compares to the national average of about <u>plus</u> 5% annually.
- Nevada's average claims severity increased at only about 7.2% annually during the period compared to the national claims severity trends of plus 12% to 13% a year.

Concluding Comments

Over the years, legislators and policy makers have continuously worked to maintain an effective and efficient workers compensation system here in Connecticut. Considering the economic issues facing the state and employers today, PCI does not believe the state of Connecticut and its tax payers should become a provider of workers compensation insurance. Today, there is a strong viable private workers compensation market in Connecticut. This bill is proposing a solution for a problem that does not exist and that is why PCI opposes HB 5308.